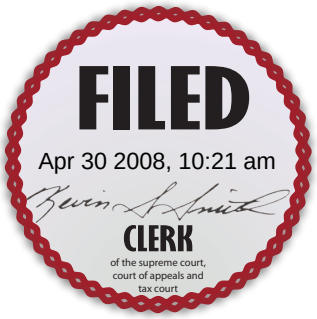

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IN THE
COURT OF APPEALS OF INDIANA

RONALD ADAMSON,	)	
	)	
Appellant-Defendant,	)	
	)	
vs.	)	No. 75A03-0705-CR-200
	)	
STATE OF INDIANA,	)	
	)	
Appellee-Plaintiff.	)	

APPEAL FROM THE STARKE CIRCUIT COURT
The Honorable Kim Hall, Judge
Cause No. 75C01-0511-FA-8

April 30, 2008

MEMORANDUM DECISION - NOT FOR PUBLICATION

MAY, Judge

Ronald Adamson appeals his convictions of child molesting as a Class A felony,[1] three counts of child molesting as Class C felonies,[2] sexual misconduct with a minor as a Class C felony,[3] and child solicitation as a Class D felony.[4] We reverse his conviction of child solicitation, but affirm in all other respects.

FACTS AND PROCEDURAL HISTORY

The Adamson family and the B. family were friends and neighbors. When Steven B. mentioned to Adamson that his daughter, T.B., was struggling with math, Adamson offered to tutor her. Adamson began tutoring T.B. in the fall of her sixth grade year. She went to Adamson's home two or three days a week after school. The first few sessions were held in the Adamson's screened-in porch, but thereafter they were held in a bedroom.

In the bedroom, Adamson and T.B. would sit on a day bed with a table in front of them. Adamson began rubbing T.B.'s thigh, telling her she was beautiful, and complimenting her "an awful lot." (Tr. at 129.) Adamson began touching T.B. inappropriately every time they were in the bedroom. He asked T.B. to lay back, and he slipped his hand under her pants and underwear. Sometimes he would fondle the outside of her vagina, and sometimes he would penetrate her with two or three fingers. T.B. tried to resist and sometimes was successful. T.B. told Adamson it hurt when he penetrated her, and he said, "pain is pleasure." (*Id*. at 134.) There were also occasions when

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[1] Ind. Code § 35-42-4-3(a)(1).
[2] I.C. § 35-42-4-3(b).
[3] I.C. § 35-42-4-9(b)(1).
[4] I.C. § 35-42-4-6(c).

Adamson fondled her bottom and breasts underneath her clothes. On other occasions, Adamson placed T.B.'s hand inside his pants and underwear and forced her to touch his penis. All these events occurred between 2001 and 2003, when T.B. was in sixth and seventh grade and under the age of fourteen.

Adamson also abused T.B. outside the tutoring sessions. Once, when T.B. was in sixth grade, Steven asked T.B. to get some tools from Adamson. Adamson shut himself and T.B. in the garage and exposed himself to her. When she turned away, he grabbed her and rubbed his penis against her backside.

The B.s and Adamsons lived on a lake and spent a lot of time swimming. Once, when T.B. was in eighth grade, she was swimming, and Adamson grabbed her foot. He slid her foot into his swim trunks and rubbed it against his penis.

Adamson would sometimes play hide and seek with the neighborhood children. He had a large detached garage for his boat. He would enter the garage with one child, lock the door, and help the child find a hiding spot. Then he would let the other children come in and look for the one that was hiding. When he was alone in the garage with T.B., he would chase her around, trying to touch her. S.D., another child who participated in the games, noticed that it sometimes took up to half an hour for Adamson to find a hiding spot for T.B. He normally spent only five or ten minutes finding a spot.

One time in the detached garage, Adamson showed T.B. a condom and wanted her to put it on him. T.B. was dating Adamson's grandson, N.S., and Adamson told her she would "have to learn if you and [N.S.] are going to get married." (*Id*. at 145.) When T.B. said she was not ready, Adamson took her hand and made her help him put the

condom on. That same day, T.B. wrote in her journal, "Ron had tried to give me condoms but I said no because I wasn't ready for sex yet." (*Id*. at 160.)

In 2004, T.B.'s brother found the journal entry and showed it to their mother, Ilene. Ilene called T.B.'s guidance counselor, Michelle Marquardt, and asked her to talk to T.B. about it. T.B. told Ilene and Marquardt that Adamson had offered to supply condoms to her, but did not tell them Adamson had forced her to put one on him. Steven later confronted Adamson about the incident, and Adamson said, "I thought she was ready to have sex with her boyfriend." (*Id*. at 374.)

T.B. had not told her parents about any of the abuse because they were friends with Adamson and she was afraid they would not believe her. She was also afraid Adamson would interfere with her relationship with N.S. if she told. In 2005, T.B. finally told Steven about the abuse. On September 9, 2005, T.B. was taken to Dr. Susan Bardwell for an examination. Dr. Bardwell found two scars on T.B.'s introitus, the area around the opening of the vagina. Dr. Bardwell concluded the scars were old, were caused by trauma that would have been painful, and could have been caused by penetration of T.B.'s vagina.

A jury found Adamson guilty of sexual misconduct with a minor, child solicitation, and four counts of child molestation.[5] Adamson was sentenced to thirty years for the Class A felony, six years for each Class C felony, and two years for the Class D felony, all to be served concurrently.

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[5] Adamson was also charged with indecent exposure. Ind. Code § 35-45-4-1(e)(4). That count was severed and is not at issue in this appeal.

DISCUSSION AND DECISION

Adamson raises several issues on appeal, which we consolidate and restate as whether: (1) the trial court abused its discretion by denying his motion to have T.B. undergo an independent medical examination; (2) the trial court abused its discretion by admitting portions of Dr. Bardwell's testimony; (3) the trial court abused its discretion by denying his motion for a mistrial; (4) admission of a case worker's testimony about the meaning of terms used in her line of work was fundamental error; and (5) the evidence was sufficient for each conviction.

1. Independent Medical Examination

Adamson argues the trial court erred by denying his motion for an independent medical examination of T.B. We review a trial court's ruling on discovery matters for abuse of discretion. *Williams v. State*, 819 N.E.2d 381, 384-85 (Ind. Ct. App. 2004), *trans. denied* 831 N.E.2d 733 (Ind. 2005). We will reverse only if the trial court's conclusion is clearly against the logic and effect of the facts of the case. *Id.*

A trial court may order a person to submit to a physical examination, but "only on motion for good cause shown." Ind. Trial Rule 35(A).[6] To establish good cause, the moving party must show:

[6] Adamson cites decisions concerning court appointment of an expert. He is not indigent and was not seeking appointment of an expert; his motion requested that a gynecologist of his choosing be permitted to examine T.B. Even though T.R. 35(A) is a rule of civil procedure, Criminal T.R. 21 provides that the

> (1) an examination is relevant to issues that are genuinely in controversy in the case; (2) . . . a reasonable nexus between the condition in controversy and the examination sought; and (3) . . . it is not possible to obtain the desired information through means that are less intrusive than a compelled examination.

Stuff v. Simmons, 838 N.E.2d 1096, 1104 (Ind. Ct. App. 2005), *trans. denied* 855 N.E.2d 1007 (Ind. 2006).

In his motion, Adamson notes Dr. Bardwell's statement "a physical exam revealed scarring in the genital area and that said scarring was caused by some kind of sexual abuse." (Appellee's App. at 5.) Adamson asserts that opinion was "contrary to medical opinion received by [Adamson's] attorney." (*Id.* at 5.) At a hearing on the motion, Adamson's attorney argued, "I did some research . . . and contacted some medical personnel which led me to believe . . . that there might be a difference in medical opinions as to" whether the scarring was caused by sexual abuse. (Tr. of Final Pretrial Conference at 7.) The trial court responded, "That may very well be true and those doctors can come in here and testify as to any conflicting medical opinions or medical information that might go against [Dr. Bardwell's] opinion. That doesn't mean there needs to be another physical examination done." (*Id*. at 8.)

T.B.'s physical condition is relevant to the issues in controversy, but Adamson did not establish the other two elements of good cause. As the trial court noted, there was no indication another examination was needed in order for Adamson to produce his own expert testimony concerning possible causes of the scarring. Adamson made no

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civil trial rules apply in criminal proceedings unless they conflict with a specific criminal rule. Therefore, T.R. 35(A) controls, and not the decisions Adamson cites.

argument that an expert could not form an opinion by reviewing T.B.'s medical records. On the contrary, his attorney apparently had already obtained medical opinions. Therefore, the trial court did not abuse its discretion by denying Adamson's motion.

Adamson now appears to argue a second examination was necessary to confirm the scars existed:

> There was no objective evidence to verify the alleged tear except for Dr. Bardwell's statement. There were no x-rays, MRI's or any other scientific evidence that there was indeed any tear. Thus, the only way that Dr. Bardwell's alleged observation could be corroborated was for Adamson to have an independent medical examination of the victim even though invasive.

(Appellant's Reply Br. at 3.) Even considering this argument, which was not made to the trial court, we cannot say denial of his motion was error. There is no indication an x-ray or MRI would be appropriate for documenting a scar. Adamson was free to cross-examine Dr. Bardwell about any lack of "objective evidence" supporting her opinion and to invite the jury to draw a negative inference therefrom.

2. Dr. Bardwell's Testimony

Adamson argues the admission of portions of Dr. Bardwell's testimony was error because it was (1) hearsay and (2) vouched for T.B.'s credibility. A trial court has broad discretion to admit or exclude evidence. *Barrett v. State*, 837 N.E.2d 1022, 1026 (Ind. Ct. App. 2005), *trans. denied* 855 N.E.2d 995 (Ind. 2006). We review a trial court's ruling for abuse of discretion. *Id*. An abuse of discretion occurs if the decision is clearly against the logic and effect of the facts and circumstances before the trial court. *Id*.

The prosecutor questioned Dr. Bardwell as follows:

> Q. Okay. Prior to conducting the exam, did you get any additional history from [T.B.] in speaking to her as far as any kind of pain or prior sensations that she had?
>
> A. Yes. She said that when she was molested that it often hurt very badly. She was in a lot of pain.
>
> Q. Did she give any indication of how that pain came about?
>
> * * * * *
>
> [A.] Digital manipulation of her genitalia.

(*Id*. at 296-97.) Adamson objected only to the second question.[7] The trial court permitted Dr. Bardwell to answer, finding it was not offered for the truth of the matter asserted and even if it was hearsay, it would be admissible as a statement made for medical diagnosis or treatment. *See* Ind. Evidence Rule 803(4).

Adamson asserts the testimony is impermissible under Evid. R. 704(b), which provides, "Witnesses may not testify to opinions concerning intent, guilt, or innocence in a criminal case; the truth or falsity of allegations; whether a witness has testified truthfully; or legal conclusions." He argues Dr. Bardwell's testimony vouched for T.B.'s credibility. However, Dr. Bardwell gave no opinion about the truth of T.B.'s allegations or T.B.'s character. As the trial court noted, Dr. Bardwell was not asked to testify about T.B.'s statements to prove that they were true, but to explain why Dr. Bardwell examined her in a particular way. Therefore, the evidence was not hearsay, nor did its admission

[7] To the extent Adamson is now challenging the first question, he must establish fundamental error. *Oldham v. State*, 779 N.E.2d 1162, 1170 (Ind. Ct. App. 2002), *trans. denied* 792 N.E.2d 40 (Ind. 2003). We conclude he cannot demonstrate fundamental error for the reasons stated herein.

violate Evid. R. 704(b). The trial court did not abuse its discretion by admitting Dr. Bardwell's testimony.[8]

3. Motion for Mistrial

During Dr. Bardwell's testimony, the following exchange took place:

> Q. All right. Did you learn from the history whether or not [T.B. had an] exam like this before?
>
> A. Yes. She had never had an exam like this before. The other things I usually ask – and I did ask – on those . . . appointments, when your last period was, . . . whether she had any other sexual partners. I always ask and the answer was no. She had never had sex before except for this molestation that had occurred which she described to me –
>
> [DEFENSE COUNSEL]: Your Honor, to which I will object, again, move to strike.
>
> THE COURT: Sustained. That portion is struck.
>
> [DEFENSE COUNSEL]: Your Honor, may I make a motion outside the presence of the jury?
>
> THE COURT: Okay. Approach the bench.
>
> (An off-the-record discussion was held at the bench.)
>
> THE COURT: Objection sustained.
>
> Ladies and gentlemen of the jury, you're to disregard the last answer in its entirety.

(Tr. at 288-89.)

Adamson claims he moved for a mistrial during the off-the-record discussion, but he has not availed himself of any of the procedures for supplementing or correcting the

[8] Even if the admission of this testimony were error, it would be harmless. Dr. Bardwell's nurse, Jonna Cartwright, testified without objection that "fingers were forced inside [T.B.'s] vagina, pushed hard and it hurt her." (Tr. at 324.)

record. *See* Ind. Appellate Rule 31 (certification of a party's statement of the evidence when part or all of the transcript is not available); App. R. 32 (motion to resolve disagreement concerning accuracy of record); App. R. 33 (agreed statement of the record). Because the record does not reflect that Adamson moved for a mistrial, this issue is waived.

Waiver notwithstanding, we will briefly address the merits of his argument. "The determination of whether to grant a mistrial is within the trial court's discretion, and to prevail on appeal, the defendant must show that he was so prejudiced that he was placed in a position of grave peril to which he should not have been subjected." *Olson v. State*, 563 N.E.2d 565, 571 (Ind. 1990). Peril is measured by the probable persuasive effect on the jury. *Gregory v. State*, 540 N.E.2d 585, 589 (Ind. 1989). "A mistrial is an extreme remedy warranted only when no other curative measure, such as an admonishment, will rectify the situation. Reversal is seldom required when the trial court has admonished the jury to disregard some statement or conduct." *Simmons v. State*, 760 N.E.2d 1154, 1162 (Ind. Ct. App. 2002) (citations omitted). The appellant has the burden of demonstrating a mistrial is the only adequate remedy. *Gregory*, 540 N.E.2d at 589.

Adamson again argues Dr. Bardwell was vouching for the truthfulness of T.B.'s allegations. However, Dr. Bardwell gave no opinion about the truth of T.B.'s allegations or T.B.'s character. Furthermore, Cartwright testified, without objection, that she asked T.B. "if there had ever been any sexual activity at any other time," and "she said no." (Tr. at 332.) Under the circumstances, we cannot say Adamson was placed in a position of grave peril.

4. Case Worker's Testimony

Deborah Wallingford is a Department of Child Services case worker who interviewed T.B. Wallingford has a bachelor's degree in criminal justice and has worked for DCS since 1999. She received additional training through the State in "investigating any type of abuse or neglect," including sexual abuse. (*Id*. at 405.)

The prosecutor asked Wallingford if, based on her field of work, she was familiar with the term "delayed disclosure":

> THE WITNESS: Delayed disclosure is when a child doesn't tell when something is happening right then and there. . . . It could be years before they tell anybody.
>
> * * * * *
>
> Q . . . . Are there certain obstacles that may exist in a disclosure?
>
> * * * * *
>
> Are there some that are seen in your field of work?
>
> A. Yes.
>
> Q. Can you give us some examples?
>
> A. They can be threatened by the perpetrator. There could be that they're afraid that their parents won't believe them. They might be embarrassed, feeling that it's there [sic] fault, that they're guilty of why it happened. Those are some.

(*Id*. at 411-13.) This testimony was admitted over Adamson's objection that Wallingford was not qualified as an expert.

Wallingford also testified, without objection, about the meaning of the term "grooming":

> Q. Okay. And in your training and experience in your field, have you heard the term grooming before?
>
> A. Yes.
>
> Q. What does that mean?
>
> A. Grooming is when the perpetrator will basically work their victim to get them to trust them, get the family to trust the perpetrator. It may be somebody that they've known for a long time before anything has even happened. They buy gifts. Like I said before, some of the flattery, some of the nice things that they say, nice things that they do for them. Those are all types of grooming.

(*Id*. at 415.)

Adamson now argues this testimony[9] was inadmissible because Wallingford was neither an expert witness nor a skilled witness. Adamson did not argue at trial that Wallingford was not a skilled witness, and the issue is waived. *See Small v. State*, 736 N.E.2d 742, 747 (Ind. 2000). Therefore, Adamson must establish fundamental error. *Ortiz v. State*, 766 N.E.2d 370, 375 (Ind. 2002). "The error must be so prejudicial to the defendant's rights as to make a fair trial impossible." *Id*.

> A skilled witness is a person with "'a degree of knowledge short of that sufficient to be declared an expert under Indiana Evidence Rule 702, but somewhat beyond that possessed by the ordinary jurors.'"
>
> Under Indiana Evidence Rule 701, a skilled witness may testify to an opinion or inference that is (a) rationally based on the witness's perception and (b) helpful to a clear understanding of the witness's testimony or the

[9] Adamson's brief challenges Wallingford's testimony about "'grooming'; 'delayed disclosure' and other generalized opinions," and cites several full pages of testimony. (Appellant's Br. at 19.) Some of the testimony on those pages cannot be characterized as "generalized opinions." (*See, e.g.*, Appellant's App. at 69-70) (Wallingford testifies she did not interview Adamson). Therefore, it is difficult to determine which portions of Wallingford's testimony Adamson is challenging, and our opinion focuses on her testimony about "grooming" and "delayed disclosure." To the extent Adamson is challenging other testimony about Wallingford's experience or terms used in her field, the argument is waived. *See Goliday v. State*, 526 N.E.2d 1174, 1175 (Ind. 1988) (argument that evidence was erroneously admitted was waived because Goliday did not identify the testimony he claimed was erroneously admitted).

> determination of a fact in issue. "The requirement that the opinion be 'rationally based' on perception 'means simply that the opinion must be one that a reasonable person normally could form from the perceived facts.'" "The requirement that the opinion be 'helpful' means, in part, that the testimony gives substance to facts which are difficult to articulate."

Haycraft v. State, 760 N.E.2d 203, 211 (Ind. Ct. App. 2001) (citations omitted), *trans. denied* 774 N.E.2d 514 (Ind. 2002).

Adamson argues Wallingford does not qualify as a skilled witness because she did not testify about specific classes she had taken or the number of molestation cases she had been involved in. Nevertheless, she testified she had a degree in criminal justice, had additional training in investigating sexual abuse and had worked with DCS since 1999 investigating sexual abuse. She specifically testified she was familiar with the terms "delayed disclosure" and "grooming" because of her training and experience. She gave examples of obstacles to disclosure that she had seen in her field. The foundation laid for her testimony could have been more thorough; however, her testimony was limited to defining terms commonly used in her field of work, and she did not offer an opinion as to how these terms might be applicable to Adamson's case. Adamson has not established the admission of this testimony was fundamental error.

6. Sufficiency of the Evidence

In reviewing the sufficiency of the evidence, we do not reweigh the evidence or assess the credibility of the witnesses. *Love v. State*, 761 N.E.2d 806, 810 (Ind. 2002). We consider the evidence most favorable to the verdict and the reasonable inferences drawn therefrom. *Id*. We will affirm if there is probative evidence from which a reasonable jury could have found the defendant guilty beyond a reasonable doubt. *Id*.

We address first Adamson's argument T.B.'s testimony must be disregarded because it was incredibly dubious. The "incredible dubiosity" rule applies when "a sole witness presents inherently improbable testimony and there is a complete lack of circumstantial evidence." *Id*. The rule is rarely applied and is appropriate only when the testimony is so inherently improbable or equivocal that no reasonable person could believe it. *Id*.

N.S. broke up with T.B. and told her he was dating her only because he felt sorry for her. This happened a few months before T.B. finally told her father about the abuse. Adamson argues T.B.'s testimony is incredibly dubious because she had a motive to fabricate the allegations against him to get even with N.S. Although there was testimony T.B. was hurt and saddened by the break up, there was no evidence she experienced an unusual level of difficulty in coping with it. A reasonable jury could believe T.B. was not motivated by revenge.

Adamson next argues T.B.'s testimony cannot be believed because it is improbable that he could molest her so many times without his wife, Kathy, knowing about it. T.B. testified Kathy was always at home when she went to the Adamsons' house for tutoring. She said Kathy was usually in the kitchen or on the computer and never came in the bedroom to check in on them. T.B. testified she used her "regular voice," and not a "loud voice," when trying to resist Adamson. (Tr. at 226.) There is nothing inherently improbable about this testimony. Although Kathy testified she sometimes looked in on T.B. and Adamson, a reasonable jury could believe T.B.'s testimony to the contrary.

Adamson also argues her story is inherently improbable because there was no testimony T.B. was upset or distraught during the two years he molested her. Kathy testified she talked to T.B. every day before she left, and T.B. was always talkative and happy. T.B. testified she was afraid to tell anyone because she did not think she would be believed and she thought Adamson would interfere with her relationship with N.S. She took active steps to conceal the abuse because of her fears. (*See*, *e.g.*, *id*. at 165) (T.B. was "walking funny" because of pain in her vagina, but she told her parents it was because she had fallen). That others did not discern her trouble does not make T.B.'s testimony incredibly dubious.

Adamson next argues it is incredibly dubious that T.B. would voluntarily swim with him in the lake if he were abusing her. The record reflects several reasons why T.B. might do so; for example, there were generally others around, and she may have believed Adamson would not touch her in public. However, we need not speculate as to T.B.'s motives. Her acquiescence to Adamson's presence in no way negates the possibility he was molesting her.

Finally, Adamson argues it is "inherently improbable that a father and mother would not know whether [their] daughter was tutored three months or three years." (Appellant's Br. at 25.) This argument mischaracterizes the record. T.B. and Steven both testified she was tutored for approximately two years while T.B. was in the sixth and seventh grades. Adamson confronted Ilene with a portion of her deposition:

> Q . . . . Mr. Ballard asks you: So it was just that one, two, or three month period? And you answered: Uh-huh. Okay. And that would have been when she was in the 6th grade? Uh-huh. And for that three months,

how long did the sessions take place at your house? Maybe one day a week.

Do you recall giving those answers?

A. Yes.

Q. And now are your answers different in that you're saying instead of three months, it's two years?

A. It went on afterwards but not at our house.

(Tr. at 437.) In other words, Ilene appears to say that T.B. was tutored at the B. home for a few months, but in total she was tutored for two years.

T.B.'s testimony was neither inherently improbable nor equivocal, and the incredible dubiosity rule does not apply. We now turn to the evidence supporting each conviction.

A. Child Molesting as a Class A Felony

This charge alleged that Adamson, when between the ages of sixty-six and sixty-eight, penetrated T.B.'s vagina with his finger. T.B. testified he did that several times while she was between the ages of eleven and thirteen. Dr. Bardwell and Cartwright both observed scars on T.B.'s introitus. Dr. Bardwell testified they were old scars and could have been caused by penetration of T.B.'s vagina. This testimony is probative evidence sufficient to support a conviction of child molesting as a Class A felony.

B. Child Molesting as a Class C Felony

Adamson was charged with three counts of Class C felony child molesting, which alleged that while T.B. was under the age of fourteen, Adamson made T.B. touch or fondle his penis, fondled or touched T.B.'s breasts, and fondled or touched T.B.'s vagina,

all with the intent to arouse or satisfy his sexual desires. T.B. testified Adamson did each of these things during the tutoring sessions. She testified Adamson's penis was erect when she was forced to touch it. She testified Adamson made comments such as "I love you" while he was touching her. (*Id*. at 133.) T.B.'s testimony was sufficient to establish he committed each of these acts of child molesting.

C. Sexual Misconduct with a Minor

This charge alleges:

> during or between the months of September 2003 and May 2004, Ronald T. Adamson, being . . . 68 years of age at the time, did knowingly perform or submit to fondling or touching of or by [T.B.], a child . . . 14 years of age at the time, with the intent to arouse or satisfy the sexual desires of himself.

(Appellee's App. at 3.) T.B. testified when she was in eighth grade, and would have been fourteen, she was swimming, and Adamson grabbed her foot. He put her foot into his swim trunks and rubbed it against his penis. She could feel that it was erect. This testimony is sufficient to establish sexual misconduct with a minor.

D. Child Solicitation

This charge alleges:

> during or between the months of September 2003 and May 2004, Ronald T. Adamson, being . . . 68 years of age at the time, did knowingly solicit [T.B.], a child . . . 14 years of age at the time, to engage in sexual intercourse, to wit: he offered [T.B.] condoms and urged her to use his garage to engage in sexual intercourse with another child.

(*Id*.) T.B. testified Adamson showed her a condom and told her to put it on him because she was "going to have to learn" if she and N.S. were "going to get married." (Tr. at

145.) When she resisted, Adamson took her hand and made her help him put it on him. The prosecutor questioned T.B. as follows:

> Q. All right. What else did he say in regards to the future and you and [N.S.]?
> A. He said whenever you guys feel like you need [condoms] just come to me and I'll give them to you.
> Q. Okay. Did he offer anything else in regards to when, or where, or how that would all occur?
>
> * * * * *
>
> [A.] No. I don't believe so.

(*Id*. at 167.)

Forcing T.B. to put a condom on him would surely be criminal, but that was not the charge Adamson faced. T.B.'s testimony establishes Adamson told her he would give her condoms if she wanted to have sex with N.S., but she did not testify he urged her to do so. Rather, she specifically denied being urged to have sex with N.S. in Adamson's garage. Offering T.B. condoms, without more, does not establish the charged offense. Therefore, we reverse his conviction of child solicitation.

Affirmed in part and reversed in part.

CRONE, J., concurs.

KIRSCH, J., concurs in result.